

TITLE VIII

CONCILIATION AGREEMENT

between

The United States Department of Housing and Urban Development

and

Scott W. Gehl
Executive Director
Housing Opportunities Made Equal, Inc.
(Complainant)

and

Affinity Renewal Development LLC
Ken-Vil Associates Limited Partnership
Renewal Housing Corporation
(Respondents)

Approved by the FHEO Region Director on behalf of the United States Department of Housing
and Urban Development

HUD CASE NUMBER:
02-08-0389-8

A. PARTIES AND SUBJECT PROPERTY

Complainant Housing Opportunities Made Equal is a fair housing organization, located at 700 Main Street, 3rd Floor, Buffalo, NY 14202.

Respondents are Affinity Renewal Development LLC, the sole member of Affinity WNY Development LLC, the developer of Collegiate Village; Ken-Vil Associates Limited Partnership, the owner of Kensington Village; and Renewal Housing Corporation, the managing agent (collectively referred to as "Respondents"). The address for the respondents is 105 Kenville Road, Buffalo, NY 14215.

The property is known as Kensington Village (hereinafter referred to as "Property"). The property is a multifamily apartment complex with 928 units, located at 105 Kenville Road, Buffalo, New York 14215.

Collegiate Village refers to the development of a college student housing and affordable housing complex to be located on a portion of the Property.

B. STATEMENT OF ALLEGATIONS

A complaint was filed on February 12, 2008 with the United States Department of Housing and Urban Development (the Department) alleging that the Respondents engaged in discriminatory housing practices in Buffalo, New York, involving Affinity Renewal Development LLC, Ken-Vil Associates Limited Partnership, and Renewal Housing Corporation. Complainant alleges that the Respondents violated §804 (a) and (b) of the Fair Housing Act as amended in 1988, 42 U.S.C. 3601 *et seq.* (the Act), on the basis of race and familial status when they displaced African Americans and families with children and proposed restricting eligibility for housing to students.

Respondents submitted an answer in response to the complaint denying all allegations contained therein.

The matter has been conciliated between the parties hereto, it is agreed that a conciliation agreement be entered into under the following conditions.

C. GENERAL PROVISIONS

1. The parties expressly acknowledge, understand, and agree that this Agreement has been negotiated between and among the parties pursuant to the Act, and only becomes a Conciliation Agreement pursuant to the Act, and a binding contract under state and federal law after the Fair Housing Equal Opportunity Region Director ("Region Director"), or his designee, signs the Agreement on behalf of the Department.

2. This Conciliation Agreement ("Agreement") will remain in effect for a period of four years from the effective date of the Agreement. The Agreement becomes effective upon the signature of the Region Director, or his designee.
3. Parties identified in this Agreement are as follows. The Complainant is Housing Opportunities Made Equal. Respondents are Affinity Renewal Development LLC, the sole member of Affinity WNY Development LLC, the developer of Collegiate Village; Ken-Vil Associates Limited Partnership, the owner of Kensington Village; and Renewal Housing Corporation, the managing agent (collectively referred to as "Respondents").
4. Neither this Agreement nor anything contained herein shall be construed as an admission by the Respondents of any liability, including, but not limited to, liability relating to any violation of the Fair Housing Act, as amended, or relating to any housing discrimination claim.
5. The parties understand, acknowledge, and agree that this Agreement becomes a public document, pursuant to Section 810(b)(4) of the Act, when the Region Director, or his designee, approves the Agreement on behalf of the Department. The parties, individually and collectively, acknowledge that each has freely, knowingly, and voluntarily entered into and executed this Agreement as a full, fair, and just resolution and termination of the investigation and complaint that alleges one or more discriminatory housing practices as defined in the Act. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.
6. Respondents acknowledge that the Act prohibits housing discrimination because of race, color, religion, sex, disability, familial status and national origin. State and municipal fair housing laws prohibit discrimination for reasons of race, color, religion, national origin, sex, disability, familial status, age, marital status, military status, sexual orientation, gender identity and expression and source of income. Respondents agree that all units will be rented on an equal opportunity basis subject to Collegiate Village's applicable eligibility requirements.
7. Respondents agree that they will not commit any unlawful acts of retaliation against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. Each Respondent further acknowledges that any alleged act of retaliation or discrimination may constitute a breach of this Agreement, and a statutory violation of the Act.
8. This Agreement, after it has been signed by the Region Director or his designee, is binding upon the Respondents, and the heirs, executors, agents, successors and assigns, and all employees of these entities.
9. Within 30 days of the signing of this agreement Respondents agree to provide all officers and board members with a copy of this Agreement. All names and titles of persons given a copy of this Agreement will be documented.

10. While this Agreement fully resolves all matters within the scope of the investigation and complaint, the Agreement does not limit the Department's authority to investigate any future Fair Housing Act complaints against any or all Respondents.
11. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification, or waiver; (b) the amendment, modification, or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the Region Director, or his designee.
12. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, and that the original executed signature pages attached to the body of the Agreement constitute one document.
13. Whenever the Department, after reasonable inquiry, has reasonable cause to believe that one or more Respondents have breached this Agreement, the matter shall be referred to the Attorney General of the United States, to commence a civil action in the appropriate U.S. District Court, pursuant to 42 USC § 3610 (c).

D. SPECIFIC PROVISIONS

Respondents agree to the following specific provisions:

14. Respondents shall retain Housing Opportunities Made Equal to conduct annual fair housing training for staff at Collegiate Village (to the extent of the Respondents' involvement at Collegiate Village) and the adjoining Kensington Village Apartments. The initial training shall commence within one hundred twenty days (120) days of the effective date of this Agreement, unless staff has not been hired for Collegiate Village and, in that case, within sixty (60) days after staff has been hired. Respondents agree that each employee shall be asked to sign a certification acknowledging that compliance with federal, state and municipal fair housing laws is a precondition of continued employment. In the event additional staff is hired while this Agreement is in effect, Housing Opportunities Made Equal will provide the above-referenced fair housing training on an annual basis to those employees. The documentation of the training shall include the employee's name, title, hiring date, and date of training.
15. Respondents agree that 20% of units in the Affordable Housing section of Collegiate Village shall permit the usage of Section 8 payment vouchers as administered by the Rental Assistance Corporation of Buffalo and Belmont Shelter Corporation. (In other words, if the named Section 8 administrations will not grant exception rents Respondents agree to rent these units for no more than allowed by the Section 8 payment standard.)
16. Eligibility for the Student Housing section of Collegiate Village shall include students, staff (to the fullest extent permitted by law consistent with the tax exempt charitable purposes of the owners/operators to retain the tax exempt status of the Housing

Complex), faculty and the family/household members of students, staff and faculty of any degree or certificate granting post-secondary educational institution (as long as such offering does not prevent the owners/operators from retaining the tax exempt status of the Housing Complex).

17. Respondents agree not to implement a maximum occupancy requirement more restrictive than two persons per bedroom in the Affordable Housing section of Collegiate Village. In family units, children under the age of two years shall not be counted towards the occupancy requirement.
18. Respondents have previously assisted relocated households by providing one month's free rent or moving expenses. Respondents now further agree to permit any former tenant eligible to reside at Collegiate Village a priority to apply to live at Collegiate Village, subject only to availability of units and the terms on relocation included in the New York State Division of Human Rights Settlement Agreement with Respondents dated April 8, 2008. In other words, if a former tenant of Kensington Village was relocated to accommodate for the construction of Collegiate Village, such tenant will be given priority over non-relocated applicants if applying to Collegiate Village.
19. Within thirty (30) days of the signing of this Agreement Respondents agree to provide a one-time \$200.00 payment to tenants (i.e. head of household tenants only) who resided at Kensington Village for more than 61 months and who were relocated due to the necessity to permit the construction renovation of Collegiate Village in 2007.
20. To effectuate these payments, Respondents will send a payment check by first class mail to all tenants (approximately 106 / \$21,200.00 in total payments) who are eligible to receive the payment no later than June 30, 2008, and will state in correspondence accompanying the payment check that: "It was decided by the owners of Kensington Village Apartments to issue an additional rebate to residents who lived at Kensington Village for 61 months or longer. The rebate is a way to show appreciation for your long term residency. Please think of Kensington Village for your housing needs in the future."
21. Due to confidentiality concerns, the names and addresses of eligible residents cannot be provided to HOME without the eligible resident's consent. Respondents agree to place in escrow the estimated \$21,200 of total payments pending delivery on or before June 30, 2008. Any checks that are not cashed for a period of 90 days after issuance will be cancelled. The remainder of any funds not redeemed by the tenants will be provided to HOME to provide, in its sole discretion, housing assistance to benefit low-income, families and seniors living in the Western New York area.
22. There are three separate complaints filed by individual complainants that accompanied HOME's complaint: Jared Hemphill v. Renewal Housing Corporation, HUD Case No. 02-08-0390-8; Brandi Taylor v. Renewal Housing Corporation, HUD Case No. 02-08-0391-8; and Shevonne Hawkins v. Renewal Housing Corporation et al., HUD Case No. 02-08-0392-8. Respondents agree to compensate the three individual complainants in the following amounts:

- a) Ms. Brandi Taylor: a sum of \$6660.00 (approximately 12 times her last monthly rent)
 - b) Ms. Shevonne Hawkins: a sum of \$7680.00 (approximately 12 times her last monthly rent).
 - c) Mr. Jared Hemphill: a sum of \$3600.00 (approximately 12 times his portion of his last monthly rent).
23. Respondents agree to compensate Housing Opportunities Made Equal the sum of \$17,800.
24. HOME agrees to a full release of any and all claims associated with the pending HUD actions against the Respondents. The individual complainants will also enter into similar conciliation agreements and will execute similar releases. If requested, the Respondents will also provide a similar release to HOME and the individual complainants of any and all claims associated with the pending HUD actions.
25. HOME, its successors and any affiliates agree not to solicit or participate in any other housing discrimination claims against the Respondents on the behalf of past or present Kensington Village tenants who may allege acts of discrimination as a result of the proposed housing complex development known as Collegiate Village which occurred on or before the date of the execution of this Agreement.
26. The parties hereto agree not to engage in conduct that is intended to or otherwise causes disparagement of any party.
27. Respondents and HOME hereto agree to work cooperatively with respect to any press release issued regarding the terms of this Agreement and further agree that the financial terms will not be discussed on an individual basis, but only referenced, if at all, in the aggregate.

E. RELIEF IN THE PUBLIC INTEREST

28. With respect to the sale or rental of dwellings, Respondents, their agents, employees, successors, assigns, and all persons in active concert or participation with them, including independent contractors, are hereby enjoined from:
- a) Refusing to sell or rent a dwelling, refusing or failing to provide or offer information about a dwelling, or otherwise making unavailable or denying a dwelling to any person because of race or familial status or any other protected class because of their inclusion in any other class protected by the Fair Housing Act;

- b) Discriminating against any person in the terms, conditions, or privileges of sale or rental, or in the provision of services in connection therewith, because of race or familial status or any other protected class because of their inclusion in any other class pursuant to the Fair Housing Act;
 - c) Making, printing or publishing any notice or statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or familial status or any other protected class because of their inclusion in any other class under the Fair Housing Act.
 - d) Discriminating against any person in making available a residential real estate-related transaction or in the terms or conditions of such a transaction, because of race or familial status or because of their inclusion in any other class protected by the Fair Housing Act.
29. Respondents agree that all advertisements, promotional materials and application forms for units at Collegiate Village (to the extent of the Respondents' or successors' involvement at Collegiate Village) and the adjoining Kensington Village Apartments will include the equal opportunity logotype or bear the phrase "equal opportunity housing". The words and/or logo shall be prominently placed and easily readable.
30. Respondents agree that at least once each quarter, advertisements for Collegiate Village (to the extent of the Respondents' or successors' involvement at Collegiate Village) will be placed in either the *Criterion*, the *Challenger* or *Panorama Hispania*. In addition, Respondents agree that at least twice annually units in the Student Housing section of Collegiate Village will be marketed by direct mail to minority student organizations at each of the colleges and universities within its market area.
31. Respondents agree to prominently display a HUD fair housing poster in its rental offices at Collegiate Village and Kensington Village and to make available fair housing brochures supplied by HOME.

F. MONITORING

32. The Department shall determine compliance with the terms of this Agreement. Monitoring this agreement may include, but is not limited to, conducting fair housing tests by the Department or other entity. The Respondents agree to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Agreement. As part of such review, HUD may inspect Respondent's property identified in Section A of this Agreement, examine witnesses and copy pertinent records of Respondent.

G. REPORTING AND RECORDKEEPING

33. Respondents must submit all required certifications and documentation of compliance to:

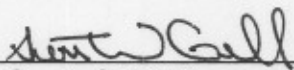
Jay Golden
Region II Director, Office of FHEO
U. S. Department of Housing and Urban Development
New York State Office
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278-0068

34. Within one hundred twenty (120) days after the effective date of this Agreement, and every twelve months thereafter for the term of this Agreement, Respondents shall submit a report containing information about compliance efforts during the preceding reporting period. A copy of each annual report shall also be provided to the executive director of Housing Opportunities Made Equal, Inc. The report shall include, but not be limited to:
- a) A list of all employees who attended mandatory training as described in paragraph 14 of this Agreement.
 - b) Documentation of policy changes required by paragraphs 15, 16, 17, and 18.
 - c) Copies of notification letters to tenants eligible to receive payments required by paragraph 20.
 - d) An accounting of checks cashed or returned as required by paragraphs 19.
 - e) Documentation that the escrow account has been established as required by paragraph 21.
 - f) Copies of checks payable to Complainants HOME, Brandi Taylor, Shevonne Hawkins, and Jared Hemphill, along with copies of receipt for checks, as required by paragraphs 22 and 23.
 - g) Documentation of the equal opportunity logo requirement in paragraph 29.
 - h) Copies of newspaper advertisements and receipts for payment. Copies of direct mail marketing as required by paragraph 30.
 - i) Copies of the fair housing posters and pictures of their display, and copies of receipts of fair housing brochures supplied by HOME, pursuant to the requirement in paragraph 31.
35. During the term of this Agreement, Respondents shall preserve all records that are the source of, contain, or relate to any of the information pertinent to the obligations under this Agreement. Such recordkeeping also includes maintaining copies of advertisements that are covered in paragraph 29 and 30 of this Agreement. They will also include dated copies of policies that include changes referred to in paragraphs 15, 16, 17, and 18.
36. Reporting requirements are identified in the Appendix, which is a part of this Agreement.

SIGNATURES

HOME v Affinity Renewal Development LLC, et al
HUD Case No. - 02-08-0389-8


Housing Opportunities Made Equal, Inc.

By: 
Scott Gehl, Executive Director

SIGNATURES

HOME v Affinity Renewal Development LLC, et al
HUD Case No. - 02-08-0389-8

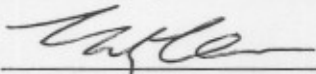
Renewal Housing Corporation

By: 
Mark Chason, President

SIGNATURES

HOME v Affinity Renewal Development LLC, et al
HUD Case No. - 02-08-0389-8

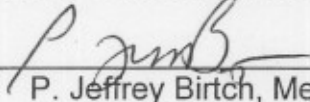
Ken-Vil Associates Limited Partnership
By: Ken-Vil Corp., its General Partner

By: 
Mark Chason, Secretary

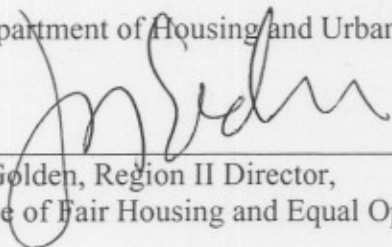
SIGNATURES

HOME v Affinity Renewal Development LLC, et al
HUD Case No. - 02-08-0389-8

Affinity Renewal Development, LLC
By: Affinity Capital LLC, its sole member

By: 
P. Jeffrey Birtch, Member

U. S. Department of Housing and Urban Development


Jay Golden, Region II Director,
Office of Fair Housing and Equal Opportunity

6/6/08
Date